

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

IN RE TROY ANTHONY DAVIS

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CASE NO. CV409-130

O R D E R

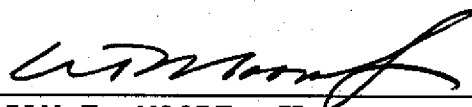
On June 24, 2010, this Court concluded a hearing in this case, pursuant to the Supreme Court's August 17, 2009 order. After listening to the evidence and legal argument presented during the hearing, the Court now **DIRECTS** the parties to submit final briefs on the following issues:

1. Whether, as a matter of constitutional law, the Eighth Amendment of the United States Constitution bars the execution of a petitioner who has had a full and fair trial without constitutional defect, but can later show his innocence;
2. What the appropriate burden of proof would be in the case of a petitioner alleging innocence subsequent to a full and fair trial, assuming that the Eighth Amendment of the United States Constitution does bar the execution of such an individual upon a sufficient showing of innocence;
3. Whether 28 U.S.C. § 2254(d) bars the Court from granting relief in this case even if it finds that Petitioner can demonstrate his innocence;
4. What level of deference, if any, should the Court apply to state court factual determinations when the federal court holds an evidentiary hearing but the state court did not;

5. What level of deference, if any, the Court should apply to the state court's specific findings with respect to any witnesses whose testimony is before both this Court and the state court in affidavit form only?

The parties' shall submit their briefs within by 5:00 p.m. on July 7th from the date of this order. No reply briefs will be permitted.

SO ORDERED this 24th day of June 2010.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA